

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:08-00063

MICHAEL JOE CLARK

MEMORANDUM OPINION AND ORDER

On May 5, 2008, the United States of America appeared by Perry D. McDaniel, Special Assistant United States Attorney, and the defendant, Michael Joe Clark, appeared in person and by his counsel, Michael T. Clifford, for a hearing on the defendant's Petition for Review or Appeal of Magistrate Order Denying Bond, filed on March 14, 2008, and the government's response thereto filed on May 2, 2008.

The court heard the representations and argument of counsel, the parties noting they have no further evidence to offer beyond that adduced during the detention hearing held before United States Magistrate Judge Mary E. Stanley on March 11, 2008, the transcript of which is on file with the court.

As stated on the record of the hearing, the court finds by clear and convincing evidence that the defendant is, for the further reasons that follow, including the defendant's methamphetamine addiction, a danger to the community and no condition or combination of conditions will assure the safety of the community. The force of the evidence supporting the indictment in this case goes beyond the probable cause found by the grand jury, in that the defendant has admitted to the state police that he did indeed engage in the theft of anhydrous ammonia, an extremely hazardous substance of an explosive nature capable of inflicting serious bodily injury if it is inhaled or comes into contact with the skin. The defendant did so after having been placed on four years probation for a methamphetamine related offense in August 2006 by the Circuit Court of Boone County, thereby continuing his methamphetamine activity by involving himself in the highly dangerous conduct of stealing anhydrous ammonia for the purpose of attempting to manufacture methamphetamine.

The court also notes that the defendant, prior to the August 2006 conviction in Boone County, has on his record a conviction for receiving and transferring stolen property and a

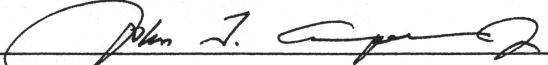
conviction for DUI. The court adopts the findings of the magistrate judge.

It is, accordingly, ORDERED that the defendant's motion for review or appeal of the magistrate judge's detention order be, and it hereby is, denied.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department and the United States Marshal.

DATED: May 22, 2008

  
\_\_\_\_\_  
John T. Copenhaver, Jr.  
United States District Judge